

REMARKS/ARGUMENTS

In the Office Action dated March 22, 2006, the Examiner 1) rejected claims 69 and 70 under 35 U.S.C. § 112, ¶ 2, as being indefinite; 2) rejected claims 60, 62, 63, 66, and 67–70 under 35 U.S.C. § 103(a) as being unpatentable over DE 1810811 ("DE '811") in view of either *Rozmus* (U.S. Patent 3,490,317) or *Kress* (U.S. Patent 1,957,462); 3) rejected claims 61, 64, and 65 under 35 U.S.C. § 103(a) as being unpatentable over DE '811 in view of either *Rozmus* or *Kress*, further in view of *Chow* (U.S. Patent 5,533,427); and 4) allowed claims 21–25, 40–41, 57 and 59.

In responding to the rejections below, Applicant makes arguments addressed to specific claims. Applicant's arguments are intended to be limited to the claims to which they are addressed. Such arguments are not intended to apply to similar language in other claims not expressly addressed by the arguments.

Rejections under 35 U.S.C. § 112

Claims 69 and 70 were rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner asserts that claim 69 recites a cavity and a web, which were already recited in the parent claim. Applicant has amended claim 69 to address the Examiner's concerns, and respectfully submits that claims 69 and 70 are now in allowable form at least with respect to 35 U.S.C. § 112.

Rejections under 35 U.S.C. § 102(b)

Claims 60, 62, 63, 66 and 67–70 were rejected under 35 U.S.C. § 102(b) as being anticipated by DE '811. The Examiner stated that DE '811 meets all the limitation of claim 60, "except for the pin to have a first end movably received in the recess and to include a second receptacle with a second end wall, with the elastic element located in the first and second receptacles between the first

end wall and the second end wall." See Office Action dated 03/22/2006 at 3. In order for a prior art reference to anticipate, every element of the claimed invention must be identically shown in a single reference.¹ References may not be combined for purposes of anticipation.² Because the DE '811 reference does not disclose every element of claim 60, as recognized by the Examiner, DE '811 cannot, as a matter of law, anticipate claims 60, 62, 63, 66 and 67-70. Additionally, as discussed below Applicant has amended claim 60 to further distinguish claim 60 over DE '811 with respect to the Examiner's obviousness rejections. Therefore, Applicant respectfully submits that claims 60, 62, 63, 66 and 67-70 are allowable at least with respect to 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103(a)

Claims 60, 62, 63, 66, and 67-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '811 in view of either *Rozmus* or *Kress*. DE '811 teaches a biasing mechanism featuring a pin that is attached on one end to a manually operable switch and on a second end to a sliding pawl. The second end of the pin in DE '811 is located within a central cavity of the pawl, and is connected to the pawl by shaft 18, which runs through the bottom of the pawl and the top of the pin. Both the pawl and pin pivot and/or rotate about the longitudinal axis of shaft 18. In this configuration, the motion of the pin as initiated by the manual operation of the switch is generally translated to the pawl through the connection of the two components at shaft 18. More specifically, in instances when the pin is rotated by actuating the switch, the pin bears on shaft 18 which is connected to the pawl, and the pawl moves in the direction of the pin at the connection point of the two pieces through shaft 18.

¹ *Apple Computer, Inc v. Articulate Sys., Inc.*, 234 F.3d 14, 20 (Fed. Cir. 2000).

² *Continental Can Co. USA Inc v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991).

This translated motion described in DE '811 is in contrast to that described in currently amended claim 60 of the present invention. Amended claim 60 now contains limitations relating to the interplay described in the specification between the first end of the pin and the sliding pawl, and specifically require that, as the switch and pin rotate, the first end of the pin alternates in bearing on a first recess end and second recess end of the sliding pawl. *See* Appl. No. 09/942,064 Specification at ¶ [0058] (describing the other end 611 of the peg 61 alternating in bearing on end 422 of the recess 42 of the pawl 40, and the other end 421 of the recess 42 of the pawl 40). In the configuration of the present claimed invention, the motion of the sliding pawl is accomplished in reaction to the first end of the pin bearing on either the first recess end or second recess end of the sliding pawl. As such, the pin and sliding pawl in the present invention are not connected, and do not require the use of the equivalent of shaft 18 as required by DE '811. The configuration of the present invention utilizes fewer components, and provides a stronger interplay between the pin and sliding pawl with the first end of the pin bearing on an end of the recess of the sliding pawl.

Further, the interplay of the pin and sliding pawl, in combination with the sliding nature of the pawl in the present invention, differentiate the present invention from the devices taught in the cited prior art references. The incorporation of a sliding pawl in the present invention allows for the use of a single pawl recess, as opposed to the at least two pawl recesses taught in *Kress*, and provides the configuration for the first end of the pin to bear in alternating fashion on opposed ends of the pawl recess as the pin rotates.

As none of the references cited by the Examiner teach a biasing means wherein a first end of the pin alternates in bearing on opposed ends of a sliding pawl recess, the combination of the cited references can not render obvious the claimed invention. Applicant respectfully asserts that claim 60 as amended is in allowable form.

Moreover, the Examiner continues to engage in impermissible hindsight in formulating the rejections of the present claims based on obviousness. The Examiner is selectively identifying prior art teachings based on the knowledge learned from the disclosure of the present claimed invention, which is improper. It is impermissible within the framework of 35 U.S.C. § 103 to pick and choose from any one reference only so much of it as will support a given position.³ In this case, the Examiner has failed to show how Applicant would have been motivated to selectively pick and choose elements from the various cited prior art references so as to arrive at the claimed invention without using the claims of the present invention as a guide. As a result, the Examiner's combination of references cannot support the claim rejections based on an assertion of obviousness under 35 U.S.C. § 103(a).

Claims 61, 64, and 65 were rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '811 in view of either *Rozmus* or *Kress*, further in view of *Chow*. As discussed above none of DE '811, *Rozmus*, or *Kress* teach the alternating bearing of a first end of the pin into opposed recess ends of a sliding pawl as is claimed in the amended claims. The Examiner only relies on the combination of DE '811 and *Rozmus* or *Kress* to teach all of the limitations except for the recessed gear wheel drive member. As discussed above, because none of *Rozmus*, *Kress*, or *Chow* teach the alternating bearing of a first end of the pin into opposed recess ends of a sliding pawl, the cited combination does not render obvious claims 61, 64, and 65.

Moreover, claims 61, 64 and 65 depend from claim 60, and therefore the limitations of claim 60 are included in the scope of claims 61, 64 and 65. When an independent claim is nonobvious under 35 U.S.C. § 103, any claim depending therefrom is nonobvious.⁴ As claims 61, 64, and 65

³ *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 448 (Fed. Cir. 1986).

⁴ MPEP § 2143.03.

depend from claim 60, Applicant submits that claims 61, 64, and 65 are also not obvious under 35 U.S.C. § 103. Applicant submits that claims 61, 64, and 65 are in condition for allowance.

Conclusion

All pending claims are believed to be free of the prior art and reconsideration and withdrawal of the rejections are respectfully requested. Applicant believes that this is a full and complete response to each rejection. If any item has been overlooked, Applicant respectfully requests the opportunity to supplement this response.

Applicant's attorney may have at times referred to claim limitations in short-hand fashion, or may have focused on a particular claim element in these remarks. These remarks should not be interpreted to mean that the other limitations of the claims can be ignored or dismissed. Instead, each claim must be viewed in its entirety, and each of its limitations be considered when determining the patentability of that claim.

Allowance of claims 21–25, 40–41, 57, and 59–70 is respectfully requested. If the Examiner believes that a telephonic interview would be beneficial, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,



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